

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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OTHELLO CHEEKS,

07CV5690 (LTS)

Plaintiff,

**ANSWER**

-against-

THE CITY OF NEW YORK; FORT WASHINGTON  
MEN'S SHELTER; PROJECT RENEWAL; NEW YORK  
CITY DEPARTMENT OF HOMELESS SERVICES; "JANE  
DOE" AND "JOHN DOE" 1 through 10, inclusive, the names  
of the last defendants being fictitious, the true names of the  
defendants being unknown to the plaintiff.

Defendants.

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Defendants, THE CITY OF NEW YORK; FORT WASHINGTON MEN'S SHELTER;  
PROJECT RENEWAL; and NEW YORK CITY DEPARTMENT OF HOMELESS SERVICES;  
(hereinafter collectively "the CITY"), by their attorneys, BIEDERMANN, REIF, HOENIG & RUFF,  
P.C., for their Answer to plaintiff's Amended Complaint, filed on or about June 25, 2007, allege  
upon information and belief as follows:

1. Deny the allegations contained in paragraphs "1" through "5", inclusive, of the  
Complaint.
2. Deny knowledge or information sufficient to form a belief as to the truth of the  
allegations contained in paragraphs "6" and "7", inclusive, of the Complaint.
3. Paragraph 8 of the Complaint having been omitted, deny the allegations contained  
in paragraph "9", inclusive, of the Complaint.

4. Deny the allegations contained in paragraph "10" of the Complaint, except admit that the City of New York is a municipality in the State of New York.

5. Deny the allegations contained in paragraphs "11", "12", and "13", inclusive, of the Complaint., except Admit that the Defendant Project Renewal operated the Fort Washington Shelter as a contractor to the City of New York acting through its Department of Homeless Services.

6. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs "14" of the Complaint.

7. Deny the allegations contained in paragraph "15" of the Complaint.

8. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "16" of the Complaint.

9. Deny the allegations contained in paragraphs "17" through "23", inclusive, of the Complaint.

10. Repeat and reallege each and every allegation contained in paragraphs one (1) through nine (9), inclusive, of this Answer as if made herein at length.

11. Deny the allegations contained in paragraphs "25" through "28", inclusive, of the Complaint.

12. Repeat and reallege each and every allegation contained in paragraphs one (1) through eleven (11), inclusive, of this Answer as if made herein at length.

13. Deny the allegations contained in paragraphs "30" through "34", inclusive, of the Complaint.

14. Repeat and reallege each and every allegation contained in paragraphs one (1) through thirteen (13), inclusive, of this Answer as if made herein at length.

15. Deny the allegations contained in paragraphs "36" through "39", inclusive, of the Complaint.

16. Repeat and reallege each and every allegation contained in paragraphs one (1) through fifteen (15), inclusive, of this Answer as if made herein at length.

17. Deny the allegations contained in paragraphs "41" through "45", inclusive, of the Complaint.

18. Repeat and reallege each and every allegation contained in paragraphs one (1) through seventeen (17), inclusive, of this Answer as if made herein at length.

19. Deny the allegations contained in paragraphs "41" through "49", inclusive, of the Complaint.

**FIRST AFFIRMATIVE DEFENSE**

20. The Complaint fails to state a claim upon which relief can be granted.

**SECOND AFFIRMATIVE DEFENSE**

21. Plaintiff's claims are all barred by the Statute of Limitations.

**THIRD AFFIRMATIVE DEFENSE**

22. This Court lacks jurisdiction over the subject matter of the complaint.

**FOURTH AFFIRMATIVE DEFENSE**

23. Plaintiff's claims are all barred by his failure to submit a Notice of Claim to the City of New York within 90 days after his claims arose.

**FIFTH AFFIRMATIVE DEFENSE**

24. Plaintiff's claims are all barred by his failure to submit a Notice of Claim to the City of New York within 60 days after May 3, 2006, as provided by order of the Supreme Court of the

State of New York, County of New York, Hon. Paul George Feinman, Index No. 400471/06.

**SIXTH AFFIRMATIVE DEFENSE**

25. Plaintiff's claims are all barred by his failure to state the date on which his claims arose in the Notice of Claim submitted to the City on April 16, 2007.

**SEVENTH AFFIRMATIVE DEFENSE**

26. Plaintiff's claims are barred by the doctrine of governmental immunity.

**EIGHTH AFFIRMATIVE DEFENSE**

27. This Court lacks jurisdiction over the person of the defendants because of improper service in that it was served without a proper summons.

**WHEREFORE**, Defendants THE CITY OF NEW YORK; FORT WASHINGTON MEN'S SHELTER; PROJECT RENEWAL; and NEW YORK CITY DEPARTMENT OF HOMELESS SERVICES, demand judgment dismissing the Complaint with prejudice together with the costs, disbursements, and fees, including reasonable attorneys fees, of the defense of this action.

Dated: New York, New York  
October 12, 2007

Yours, &tc.

**BIEDERMANN, REIF, HOENIG & RUFF, P.C.**



By: \_\_\_\_\_

Daniel F. Hayes (DH7552)  
Of Counsel  
Attorneys for Defendants  
THE CITY OF NEW YORK; FORT  
WASHINGTON MEN'S SHELTER;  
PROJECT RENEWAL; and NEW YORK  
CITY DEPARTMENT OF HOMELESS  
SERVICES  
570 Lexington Avenue  
16th Floor  
New York, New York 10022  
(212) 697-6555  
(212) 986-3509 fax  
[dhayes@bhmr.com](mailto:dhayes@bhmr.com)

**TO:** Nkereuwem Umoh, Esq.  
255 Livingston Street  
4<sup>th</sup> Floor  
Brooklyn, New York 11217  
(718) 360-0527  
(718) 360-1916 fax  
Attorneys for Plaintiff  
Othello Cheeks